

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

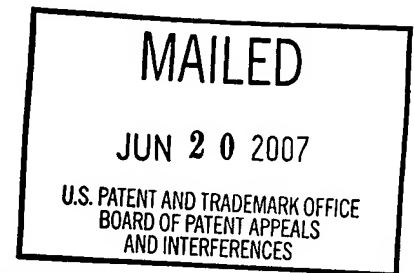
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*Ex parte* JON R. STIEBER, THOMAS P. ADAMS, ROBERT L. ZWIEG,  
and WILLIAM R. KIRKMAN

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Application 10/005,023  
Technology Center 2600

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This Image File Wrapper (IFW) application was electronically received at the Board of Patent Appeals and Interferences on June 11, 2007. A review has determined that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below:

*Examiner's Answer*

On June 13, 2006, an Examiner's Answer was entered into the record. In the Evidence Relied Upon section, page no. 2, paragraph 8, the Examiner has stated that "No evidence is relied upon by the [E]xaminer in the rejection of the claims under appeal." A review of the Examiner's Answer reveals that reference to Waller (US 2001/0051922) was applied to the statement of rejections in the Grounds of Rejection, paragraph (9) of the Examiner's Answer.

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Before further review, the Examiner must mail a PTOL-90 that will include in the amended Evidence Relied Upon section, the list of references mentioned in the statement of rejections. *See MPEP* § 1207.02.

*Information Disclosure Statement*

Further review of this application reveals that Appellants filed an Information Disclosure Statement (IDS) which was received by the USPTO on May 7, 2002. There is no indication on the written record that the Examiner formally considered or acknowledged this document. Clarification is required.

Accordingly, it is *ORDERED* that the application is returned to the Examiner:


- (1) to issue and mail a PTOL-90 having the missing references listed under the Evidence Relied Upon section, heading (8) of the Examiner's Answer;
- (2) to provide clarification as to the entry status of the IDS received by the USPTO on May 7, 2002;
- (3) to initial the references or draw a line through the entries contained on the PTO-1449, and send a signed copy to Appellants and have said PTO-1449 made of record in the instant application;

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(4) to issue and mail a form PTOL-1449 clarifying the references used in the rejection of the claims; and

(5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:   
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PJN/hh

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